

STATE PROPERTIES COMMITTEE MEETING

TUESDAY, NOVEMBER 14, 2008

The meeting of the State Properties Committee was called to order at 10:04 a.m. by Chairman Kevin M. Flynn. Other members present were Richard Woolley representing the Rhode Island Department of Attorney General; Robert Griffith representing the Rhode Island Department of Administration; Robert W. Kay and John A. Pagliarini, Jr., Public Members and Xaykham Khamsyvoravong representing the Rhode Island Office of the General Treasurer, Ex-officio Member. Others in attendance were Charles Donovan from the Rhode Island House of Representatives; Robert C. Bromley from the Rhode Island Senate Fiscal Office; Lisa Primiano and Michelle Sheehan from the Rhode Island Department of Environmental Management; Robert B. Jackson, Paul Carcieri and Colleen Kerr from the Rhode Island Department of Transportation; Michael D. Mitchell and Arn Lisnoff from the Rhode Island Department of Administration; Todd Tinkham from the Rhode Island Executive Military Staff; Robert Kando from the Rhode Island Board of Election; and Frank Fiorenzano from Paolino Properties.

Chairman Flynn noted for the record that the State Properties Committee did have a quorum present.

A motion was made to approve the regular minutes of the State Properties

Committee meeting held on Tuesday, October 14, 2008, by Mr. Pagliarini and

seconded by Mr. Kay.

Passed Unanimously

A motion was made to approve the Executive Session minutes from the State

Properties Committee meeting held on Tuesday, October 14, 2008, was made by Mr.

Pagliarini and seconded by Mr. Woolley.

Passed Unanimously

A motion was made to approve the regular minutes of the State Properties Committee meeting held on Tuesday, October 28, 2008, by Mr. Griffith and seconded by Mr. Woolley. As both Mr. Kay and Mr. Pagliarini were unable attend said State Properties Committee meeting, they abstained from voting to approve the meeting minutes. The motion passed three (3) votes “Aye” with two (2) Abstentions.

Three (3) Votes “Aye”

Mr. Griffith

Mr. Woolley

Chairman Flynn

Two (2) Abstentions

Mr. Pagliarini

Mr. Kay

Chairman Flynn noted that Item E2 is deferred to the next meeting of the State

Properties Committee at the request of the Department of Transportation.

OLD BUSINESS – A request was made for execution of an identical Temporary Construction Easement by and between the Department of Administration and Lowe's, Home Center, Inc. Mr. Mitchell explained that the original executed Temporary Construction Easement relative to the property located at 1416 Douglas Pike in the Town of North Providence was previously approved by the State Properties Committee on May 13, 2008, and subsequently forwarded to the attorneys for Lowe's Home Center, Inc. Mr. Mitchell explained that the original executed document was misplaced by the attorneys for Lowe's Home Center, Inc. prior to its being recorded. Therefore,

counsel for Lowe's Home Center, Inc. has requested that both the Department of Administration and the State Properties Committee execute an original duplicate Temporary Construction Easement in order for Lowe's Home Center, Inc. to record said document. A motion was made to approve the request for signatures on an identical Temporary Construction Easement by Mr. Woolley and seconded by Mr. Griffith. Said motion passed four (4) votes "Aye" to one (1) vote "Nay". Mr. Pagliarini explained that as he voted against the original request for approval of the Temporary Construction Easement, he will obviously remain consistent relative to voting against said request. The item passed four (4) votes "Aye" to one (1) vote "Nay".

Four (4) Votes "Aye"

Mr. Griffith

Mr. Kay

Mr. Woolley

Chairman Flynn

One (1) Votes "Nay"

Mr. Pagliarini

ITEM A – Department of Transportation – A request was made for approval of and signatures on a Consent to Grant of Mortgage by and between the Department of Transportation and Atlantic Plain Realty, LLC relative to the Perpetual Non-Exclusive Surface Easement over

Department of Transportation controlled property to be utilized as ancillary parking. Chairman Flynn indicated that this request was presented to the State Properties Committee at the meeting of October 14, 2008. However, the matter was tabled to a future meeting of the State Properties Committee in order to provide the Department of Transportation with adequate time to research the current status of Webster Bank and to clarify the conditions under which the State Properties Committee could reasonably withhold approval of any future transfer of the grant of easement to a third party. Mr. Mitchell indicated that the Department of Administration sold the property located at 90 Plain Street to Atlantic Plain Realty, LLC. Subsequently, in order to accommodate Atlantic Plain Realty, LLC.'s need for additional parking, as available parking is insufficient at the 90 Plain Street property, the Department of Transportation conveyed a Perpetual Non-Exclusive Surface Easement over property located adjacent to the 90 Plain Street property. In order to consummate its mortgage financing through Webster Bank, Atlantic Plain Realty, LLC., needs the Consent to Grant of Mortgage. Therefore, in the event it should default on the mortgage, the holder, Webster Bank, would be able to assume ownership of the easement rights. Mr. Mitchell explained that as the State of Rhode Island wishes to maintain knowledge of any and all parties with an interest in State-owned property, any future conveyance of the Grant of Easement will require the approval of the State Properties Committee.

Mr. Mitchell indicated that a similar transaction was effectuated relative to the Radison Hotel property located in India Point and

therefore, precedent does exist relative to this type of transaction. Chairman Flynn noted that Mr. Pagliarini during the previous presentation of this item indicated that he did not approve of the method utilized to convey the property to Atlantic Plain Realty, LLC. Mr. Pagliarini indicated that he believes the Department of Transportation should have entered into a license agreement rather than granting a Perpetual Non-Exclusive Surface Easement. Mr. Ryan indicated that the State of Rhode Island received \$3.6 million dollars in revenue relative to the sale of the 90 Plain Street property. Mr. Pagliarini indicated that the minutes of October 14, 2008, which were just approved by the State Properties Committee, state that relative to this transaction “a motion was made to table the subject request to provide the Department of Administration adequate time to investigate the status of Webster Bank and to clarify the conditions under which the State Properties Committee could reasonably withhold approval of a future transfer of the Grant of Easement.” Mr. Pagliarini asked if the Department of Administration has researched these issues and, if so, whether Mr. Mitchell has any information he would like to share with the Committee. Mr. Mitchell indicated he conducted an on-line search of Webster Bank during which he learned that Webster Bank is a Connecticut banking entity in good standing. Mr. Mitchell noted that according to said limited source of information, Webster Bank appears to be a sound banking institution.

In regard to the State Properties Committee’s ability to withhold approval of a future conveyance of the Grant of Easement, Mr. Mitchell stated that although the original Grant of Easement

document states that said approval shall not be unreasonably withheld, the State Properties Committee retains the ability to request information regarding any entity that proposes to take title to State-owned property and to exercise its discretion relative to approving or denying any future transfer. Mr. Pagliarini noted that within the Consent to Grant of Mortgage document Webster Bank is referred to as "Webster Bank National Association". Mr. Pagliarini stated that it is his opinion that the correct terminology should be "Webster Bank, National Association member" as he strongly doubts that Webster Bank is a National Banking Association, but rather a member of the National Banking Association. Mr. Pagliarini asked that said references be investigated as to their accuracy and revised if necessary. Additionally, as a matter of housekeeping, Mr. Pagliarini indicated that a period was needed at the end of the document after the word "withheld". Mr. Woolley indicated that this document is simply to accommodate the entity that purchased the 90 Plain Street property to allow it to benefit from full use of said property. Chairman Flynn stated that in view of all the reconstruction being conducted in this area, the Department of Transportation would not have indicated that the easement property was surplus to its needs if there was any conceivable possibility that said property would be needed for future highway use. Mr. Mitchell indicated that the property went through the Department of Transportation's review process prior to granting the Perpetual Non-Exclusive Surface Easement and said easement is restricted to surface parking. A motion was made to approve by Mr. Woolley and seconded by Mr. Griffith. The motion passed three (3)

votes “Aye” to two (2) votes “Nay”.

Three (3) Votes “Aye”

Mr. Griffith

Mr. Woolley

Chairman Flynn

Two (2) Votes “Nay”

Mr. Pagliarini

Mr. Kay

ITEM B – Office of the Adjutant General – A request was made for approval of and signatures on a Land Lease by and between the Rhode Island Airport Corporation and the Rhode Island Executive Military Staff for exclusive use of a portion of Airport Road for the construction of an Army Aviation Support Facility for the Army National Guard. Chairman Flynn noted that this item was initially presented to the State Properties Committee on October 14, 2008, at which time Mr. Woolley expressed concern relative to the alignment of the Rhode Island Airport Corporation’s Master Lease with the Department of Transportation and the subject Land Lease. Mr. Woolley stated that he is satisfied that his previous concerns have all been appropriately addressed. A motion was made to approve by Mr. Pagliarini and seconded by Mr. Kay.

Passed Unanimously

ITEM C – Department of Administration – A request was made for approval of and signatures on a Grant of Easement by and between the State of Rhode Island, acting through the Department of Administration and the Narragansett Electric Company to supply electrical service to the Rhode Island State Police Headquarters and the 911 Call Center located at 311 Danielson Pike in the Town of Scituate. Mr. Lisnoff explained that the Grant of Easement before the State Properties Committee is identical to a prior Grant of Easement recently approved by the State Properties Committee. Mr. Lisnoff indicated that the construction process consisted of two (2) phases. Phase I consisted of relocating the existing utilities to make room for the new building and Phase II is the permanent Grant of Easement for the new building. A motion was made to approve by Mr. Woolley and seconded by Mr. Griffith.

Passed Unanimously

ITEM D – Department of Administration – A request was made for authorization to enter into negotiations relative to the temporary quarters for the Rhode Island School of the Deaf. Mr. Lisnoff indicated that based upon the State Properties Committee's approval at a prior meeting held of October 21, 2008, the Department of Administration issued a Request for Proposals to solicit bids for space to house the temporary quarters for the Rhode Island School for the Deaf primarily to ensure the safety of the students during the construction of the new school building as well as to attempt to limit costs. Mr. Lisnoff indicated that the Department of Administration received three (3) responses as a result of the Request for Proposals.

Mr. Lisnoff indicated that a special Committee was created to evaluate said responses. The successful candidate was the Warwick School Department. The Department of Administration is here today seeking approval to enter into negotiations with both the Warwick School Department and Warwick School Committee to negotiate a temporary lease agreement for the Rhodes School. Chairman Flynn asked if in the event negotiations with the Warwick School Department and Committee turn out to be unsuccessful, are either of the other properties worthy of pursuing negotiations and, if so, would the Department of Administration have to return to the State Properties Committee for approval to enter into negotiations with either of the property-owners. Mr. Lisnoff indicated that he will have to consult with the Building Committee and the Administration for the Rhode Island School for the Deaf relative to Chairman Flynn's question. Mr. Lisnoff noted that neither of the other properties were particularly suitable based upon the scores set forth by the evaluating Committee and/or by the criteria set forth in the Request for Proposals. Mr. Lisnoff indicated that the Department of Administration is aware of other properties, which are at least ostensibly may be more suitable for the needs of the Rhode Island School for the Deaf; however, the property owners did not respond to the Request for Proposals. Therefore, if the Department of Administration and the Warwick School Department are not successful in negotiating the terms of a lease, than the Department may have no choice but to return to the Committee seeking authorization to re-advertise the Request for Proposals and/or for

authorization to negotiate with these unresponsive property owners. Mr. Lisnoff stated that there were two (2) options considered relative to the construction of the new building; one was to allow the students to remain in the existing building and the new facility would be constructed around them and the second option was that the students would vacate the school for approximately one (1) year and attend an alternate facility. The second option not only expedites the construction process, but would potentially save the State of Rhode Island somewhere between \$550,000 and \$900,000 and avoid the necessity of the State having to implement safety measure to ensure the protection and wellbeing of the students during the construction process. Mr. Pagliarini noted that the negotiations will involve more than simply agreeing upon a fee for the leasing of a facility. Mr. Pagliarini indicated that there is the potential for various plan upgrades to the alternate facility, fire code issues and the like, which will need to be considered. Mr. Pagliarini indicate that he has no objection to the Warwick site or to granting permission for the Department of Administration to enter into negotiations with the Warwick School Department and he understands that time is of the essence with regard to the construction of the new facility. However, he believes that not only should the Department of Administration enter into negotiations with the Warwick School Department and Committee but that either the Mayor's Office, Finance Committee and/or the City Council should at least review the terms and conditions of the lease agreement prior to its being executed by the parties. Mr. Pagliarini explained that he believes there will be a

political ramification if suddenly school buses and personal student transportation returns to what has been a dormant area. Chairman Flynn indicated that he would notify Mayor Avedisian that the Department of Administration would be entering into discussions and negotiations with the City of Warwick Department. Therefore, Mr. Pagliarini stated that he will move to approve authorization for the Department of Administration to enter into negotiations with the Warwick School Department relative to the Warwick site; however said approval will be subject to the terms and conditions of the lease agreement be presented to either the Mayor's Office and/or the City Council of Warwick for informational purposes prior to the execution of said lease agreement by the parties. Said motion was seconded by Mr. Woolley.

Passed Unanimously

ITEM E – Board of Elections – A request was made for permission to exercise the option to renew the Lease Agreement by and between the Board of Elections and RAB Properties for storage space located at 716 North Main Street in the City of Providence. Mr. Ryan explained that the purpose of the renewal of the Lease Agreement is for the storage of voting machines. Mr. Ryan presented a summary of the terms and conditions of the existing lease. Mr. Ryan indicated that the leased property is located at 716 North Main Street, which is approximately two (2) blocks from the Board of Elections Headquarters. By way of background information, Mr. Ryan explained that the Board of Elections issued two (2) separate Request for Proposals relative to storage space for the Board of Elections and

the subject premises has turned out to be ideal in terms of meeting the needs of the Board of Elections. Mr. Ryan indicated that the Board of Elections believes it is a fair and equitable Lease Agreement and that the landlord has been very agreeable throughout the term of the Lease Agreement. Mr. Ryan indicated that the Lease Agreement only provides for a one year option to renew the Lease Agreement for this space. Mr. Ryan stated that because of the successful relationship between the parties and because the location is ideal, the Board of Elections respectfully requests that the State Properties Committees authorize the Board of Elections to attempt to extend the term of the Lease Agreement during said negotiations. Mr. Ryan explained that ideally, the Board of Elections would like to have its Headquarters and storage facility at one location be it a State-owned facility or a new leased facility. Mr. Ryan indicated that the Board of Election simply needs more than one year to accomplish that goal. Mr. Kando explained that because the storage facility is in such close proximity to the Board of Elections Headquarters, it allows his temporary and permanent staff to move between the two facilities with very little loss of time. Mr. Kando indicated that the close proximity also allows increased supervision over the temporary staff by the permanent staff which has proved beneficial to the Board of Elections as a whole. Mr. Kando indicated that the subject facility has both an outside surrounding fence as well as security for the building itself. Mr. Kando explained that the Help America Vote Act requires the Board of Elections to have additional voting equipment. The current Headquarters is simply not large enough to both house the

additional equipment and to run an election. Mr. Kando indicated that it took the Board of Elections a long time to find suitable storage space. Mr. Kando echoed Mr. Ryan's comments that the landlord has been very accommodating and the site has been ideal. Mr. Kando indicated that a few additional years would be very helpful to the Board of Elections and provide it with the time to thoroughly investigate alternative locations in which the Headquarters and storage space could co-exist. Chairman Flynn clarified that the current Lease Agreement will expire at the end of December 2008 and that the Lease Agreement provides for an option to renew for one year. Mr. Ryan indicated that is correct and that the Board of Elections is requesting that during the upcoming negotiations it has the Committee's authorization to negotiate an extension of the option to renew by two or three years. The proper procedure by which the Board of Elections can renew the current option and then attempt to extend the option to renew the Lease Agreement by two or three years was discussed at length and all parties were clear relative to said procedure. A motion was made to approve the request to exercise the option to renew the Lease Agreement for one year and to grant the Board of Election authorization to enter into negotiations to extend the option to renew for two or three additional years with the understanding that the Board of Elections will return to the Committee regarding the extension of the option to renew by Mr. Pagliarini and seconded by Mr. Kay.

Passed Unanimously

ITEM F – Department of Revenue/Division of Motor Vehicles – A

request was made to for permission to exercise the option to renew and negotiate the rental rate for a three-year option term for the premises located at One Joyce Street in the Town of Warren. Mr. Ryan explained that the premises is located in the East Bay Government Center in Warren. The premises serves as a small satellite office for the Department of Revenue and its rental fee is slightly over \$9,000 per year. Mr. Ryan indicated that again the State of Rhode Island has a good working relationship with the landlord. The Department of Correction's Adult Probation and Parole Unit is housed in this same building together with the Warren Police Department. The Lease Agreement contains a provision for a ninety (90) day written notice if the State of Rhode Island decides to cancel said tenancy, although by statute the State of Rhode Island is required to maintain a Division of Motor Vehicles' office in the Town of Warren at least on a part time basis. The Department of Review is pleased with the subject premises and it suits their operational needs. Mr. Kay indicated that he thought said office has been closed for many years. Mr. Ryan stated that Governor Almond did attempt to close the office; however, the he was advised by one of his attorneys that it must be maintained by statute. Mr. Pagliarini stated that he personally believes the satellite office should be closed. Mr. Pagliarini stated that the Department of Revenue needs to re-evaluate the location of all Division of Motor Vehicles' office locations. Mr. Pagliarini indicated that every office save the Warwick office is on the perimeter of the State of Rhode Island. The offices need to be more centrally located in location such as the Town of Johnston were there

are eight (8) communities that can circumvent these location issue; however, offices are located in Woonsocket and Pawtucket, which are not easily accessible by the general population. A motion was made to approve by Mr. Griffith and seconded by Mr. Woolley. The motion passed four (4) votes “Aye” to one (1) vote “Nay”.

Four (4) Votes “Aye”

Mr. Griffith

Mr. Woolley

Mr. Kay

Chairman Flynn

One (1) Vote “Nay”

Mr. Pagliarini

Ms. Kelley indicated that she was before the State Properties Committee

with regard to the RIPTA and DOR/DMV Lease Agreement and was asked to provide the

Committee with an updated Certificate of Insurance and indicated that said certificate was in her possession at this time. Ms. Kelly submitted the updated Certificate of Insurance to the Committee for its file.

ITEM G – Department of Administration/Division of Information Technology- A request was made for permission to advertise a

Request for Proposals for the acquisition of a commercial office building to house a State centralized data center. Mr. Ryan provided the Committee with a brief history of this project. Mr. Ryan indicated that the Department of Administration issued a Request for Proposals in late spring of 2007. The Department of Administration received two responses to said Request for Proposals. In June of 2007, the State Properties Committee granted the Department of Administration to conduct an appraisal of the most suitable property and initiate negotiations with the property-owner. Subsequently, the negotiations broke down with said property owner as far as price and ability to occupy the building by a date certain. Mr. Ryan indicated that it is common knowledge that the Johnston facility is inadequate. Mr. Ryan indicated that Division of Information Technology has suggested that a centralized facility be investigated that would be adequate to house all necessary equipment, but would also be able to accommodate 120 staff members rather than the 20 individuals the current location is able to accommodate. Mr. Ryan indicated that unfortunately, Jack Landers is unable to attend this meeting as he recently underwent heart surgery and Phil Silva, who is doing a tremendous job in Mr. Lander's absence, is unable to be present today due to a conflict. Mr. Ryan indicated that both the Department of Administration and the Division of Information Technology believe this is a good opportunity to once again test the market, given current market conditions, the thought is that there is a better chance of securing a building at a reasonable price and would like the opportunity to re-advertise a Request for Proposals with the

Committee's permission. Mr. Pagliarini indicated that, given the State's current economic condition, he believes the Department of Administration and the Division of Information Technology's timing is poor. Chairman Flynn indicated that due to the downturn in the real estate market, the of the request may enable the State to secure a suitable building at a reasonable cost. Mr. Pagliarini questioned whether there was any other State-owned building that is suitable for the operational needs for the Division of Information Technology. Mr. Ryan indicated that there is no available State-owned building suitable for the needs of the Division of Information Technology. Chairman Flynn explained to Mr. Pagliarini that the Department of Administration and the Division of Information Technology has been examining a building within the soon to be vacated DCYF facility located in the City of Cranston (part of the old training school facility), however, even if renovated would be, less than adequate for the Division of Information Technology's needs. Mr. Pagliarini asked Mr. Ryan how many square feet does the Division of Information Technology require. Mr. Ryan indicated that that the Department of Administration the Division of Information Technology is seeking at least fifty thousand (50,000) square feet of space. Chairman Flynn indicated the Department of Administration and the Division of Information Technology believes it may be more prudent to purchase an existing building that is suitable to its needs. A motion was made to approve by Mr. Woolley and seconded by Mr. Griffith. The motion passed four (4) votes "Aye" to one (1) vote "Nay".

Four (4) Votes "Aye"

Mr. Griffith

Mr. Woolley

Mr. Kay

Chairman Flynn

One (1) Vote “Nay”

Mr. Pagliarini

ITEM H – Department of Environmental Management – A request was made for conceptual approval to surplus approximately 41,059 square feet of land including a 1,494 square foot single-family house located at 2283 Hartford Avenue in the Town of Johnston. Ms. Primiano explained that this was an acquisition made by the State of Rhode Island at a time when it was planning to construct a more active park at the Snake Den property. Since that project has been derailed due to a legislative mandate not to pursue the project and due to budget issues, the Department of Environmental Management wishes to surplus the property and single-family house as it is certainly in excess of the Department’s needs. Ms. Primiano indicated that the property was purchased in 2001, for a purchase price of \$129,000. The property was just recently appraised in October of 2008, and a value of \$185,000 was established. The Department of Environmental Management, with the Committee’s permission, would like to examine and pursue the idea of creating an affordable housing unit at this site.

Mr. Pagliarini asked if this property abuts the proposed Town of Johnston Fire Department site. Ms. Primiano indicated that the subject property does not directly abut the proposed Town of Johnston Fire Department site. Mr. Pagliarini asked how the affordable housing condition coincides with the mission of the Department of Environmental Management. Mr. Pagliarini stated that he believes there is some ‘social engineering’ behind the Department’s decision to attempt to enforce an affordable housing restriction relative to the sale of the property, which in fact diminishes the value of the property. Mr. Pagliarini stated that he sits on this Committee to get the most money for property and every time a restriction is placed on a property for purposes of affordable housing the property’s value is diminished. Therefore, Mr. Pagliarini indicated he does not support the affordable housing condition relative to this property. A motion was made to approve the Department of Environmental Management’s request to for conceptual approval to surplus approximately 41,059 square feet of land including a 1,494 square foot single-family house located at 2283 Hartford Avenue in the Town of Johnston provided there is no restriction regarding the use of the property for affordable housing. The motion was made by Mr. Pagliarini and seconded by Mr. Kay. The motion passed three (3) votes “Aye” to two (2) votes “Nay”.

Three (3) Votes “Aye”

Mr. Pagliarini

Mr. Woolley

Mr. Kay

Two (2) Votes “Nay”

Chairman Flynn

Mr. Griffith

ITEM I – Department of Environmental Management – A request was made for approval of and signatures on a Warranty Deed for the acquisition of 4.61 acres of land located 212A Hartford Pike in the Town of Foster. Ms. Primiano explained that this item previously came before the State Properties Committee in August of 2008. Ms. Primiano explained that the acquisition involves a federal earmark that can only be used for the acquisition of Jerimoth Hill. Ms. Primiano stated that Jerimoth Hill is actually owned by Brown University; however, the only access to it is through other privately owned property. Ms. Primiano explained that the Department of Environmental Management learned that the Mosleys planned to sell the property, which consists of a single family-house and 4.6 acres of land. The property was appraised by Andolfo Appraisal and valued at \$340,000. Ms. Primiano indicated that there is also some sort of small development, which will be associated with this acquisition. Ms. Primiano indicated that the public currently parks across the street, which creates a very dangerous situation. Therefore, the Department of Environmental will be creating a very small gravel parking lot for public parking. Ms. Primiano indicated that the Department of Environmental Management and the Town of Foster will be working

together to create permanent public access and a trail to Brown University's property. Brown University will be granting a gratis public access easement on a portion of the property and will in turn receive a long-term lease to utilize the house for public educational purposes and the storage of equipment for its astronomy program. A motion was made to approve by Mr. Woolley seconded by Mr. Griffith.

Passed Unanimously

ITEM J – Department of Environmental Management – A request was made for approval of and signatures on two (2) Deeds for Development Rights over two (2) parcels of land; one consisting of 1,751 square feet of land located on Linden Street and the other consisting of 2,464 square feet of land located on Somerset Street in the City of Providence. Ms. Sheehan provided a site map for the Committee's review and illustrated the exact location of each of the subject parcels of land. Ms. Sheehan explained that the Somerset Garden has been utilized by low income communities for the last 25 years and these Deeds for Development Rights will enable them to continue to do so. Mr. Pagliarini asked Ms. Primiano to provide the State Properties Committee with an accounting of funds available and expended by the Department of Environmental Management for the acquisition of open space and other purchases. Mr. Pagliarini indicated that each time the Department makes one of these purchases, it increases the State's indebtedness. Mr. Pagliarini indicated that he does not believe the State should be investing in acquisitions such as this given the State's financial situation. Ms.

Primiano indicated that the current downturn in the real estate market may generally place the Department of Environmental Management in a better position to acquire open space, because it is less likely to be competing with private developers for the same land. After further discussion regarding the funds available to the Department of Environmental Management and the spending habits of the Department, a motion was made to approve by Mr. Woolley and seconded Mr. Griffith. The motion passed four (4) votes “Aye” to one (1) vote “Nay”

Four (4) Votes “Aye”

Mr. Griffith

Mr. Woolley

Mr. Kay

Chairman Flynn

One (1) Vote “Nay”

Mr. Pagliarini

ITEM K – Department of Transportation – A request was made for approval of and signatures on a License Agreement by and between the Department of Transportation and Waterview Place, LLC for use of approximately 5,490 square feet of property located at 55 Douglas Pike in the Town of Smithfield for parking and beautification. Mr. Carcieri explained that Waterview Place, LLC is the owner of a strip

mall located on Route 7 in the Town of Smithfield. Mr. Carcieri presented photographs and a site map illustrating the strip mall and exact location of the State-owned property. Mr. Carcieri indicated that Waterview Place, LLC wishes to utilize the subject property for both vehicle parking and beautification. An internal appraisal of the subject property established a rental value of \$180.00 per month. Mr. Carcieri stated that the License Agreement is for a term of five (5) years; however, at the end of the third year the Department of Transportation will re-evaluate the rental fee to determine whether said fee should be increased. Mr. Carcieri indicated that the Waterview Place, LLC has provided a Certificate of Insurance and the corporate disclosure materials to the State Properties Committee. Mr. Woolley noted that it appears from the photographs that Waterview Place, LLC has been encroaching upon the subject property and has in fact paved and painted lines to delineate parking spaces. Mr. Carcieri explained that Waterview Place, LLC approached the Department of Transportation for a physical alteration permit to obtain a curb cut from Route 7 as well as to stripe the area it desired to license. Mr. Carcieri indicated that the Department of Transportation has monitored the State-owned property very closely to ensure that it was not being utilized for vehicle parking. Mr. Carcieri stated that there are no retail stores currently located and/or operating in the strip mall and that the paved and striped area has not been utilized for parking. Mr. Woolley asked if the strip mall is newly constructed. Mr. Carcieri indicated that the strip mall is newly constructed. Chairman Flynn asked how long ago the State-owned

property was paved and striped and whether Waterview Place, LLC should pay a retroactive rental fee. Mr. Carcieri indicated that the parking spaces were created approximately nine (9) months ago; however, the Department of Transportation's position is that as there are no tenants operating stores in the strip mall, the subject property was not being utilized for that nine (9) month period. Mr. Pagliarini asked whether it was represented to the Planning Board that Waterview Place, LLC had the right to utilize the property for vehicle parking during the approval process. Mr. Carcieri explained that the Department of Transportation furnished the applicant with a letter, which stated that the licensing of the subject property was under review and stipulated that no use of the subject property is inferred or implied. Therefore, the Department of Transportation's position is that the subject property was not being encroached upon and would not be utilized until such time as the License Agreement became binding. Mr. Griffith suggested that entering, paving and striping the property could constitute utilization of the subject property. Mr. Carcieri indicated that he is unsure if the value of the property is based upon use or theoretical use. After a detailed discussion regarding whether the Department of Transportation should seek payment of retroactive rent, a motion was made to approve by Mr. Pagliarini and seconded by Mr. Griffith. The motion passed four (4) votes "Aye" to one (1) vote "Nay".

Four (4) Votes "Aye"

Mr. Griffith

Mr. Pagliarini

Mr. Kay

Chairman Flynn

One (1) Vote “Nay”

Mr. Woolley

ITEM L – Department of Transportation – A request was made for conceptual

approval to sell approximately 2,200 square feet of property located at the Interstate

95SB R-O-W adjacent to Woodland Street in the City of Providence. Mr. Carcieri presented a site map and photographs illustrating the exact location of the subject property. Mr. Carcieri noted that the subject property has been encroached upon for purposes of vehicle parking by the Foundry Corporate Office Center (“the Foundry”). Mr. Carcieri explained that the Foundry is the owner of the large office complex, which houses some of the Department of Environmental Management’s offices. The Department of Transportation’s Land Sales Committee has approved the sale of the property. The Foundry has represented to the Department of Transportation that it wishes to utilize the land for the placement of a utility pad to provide additional power up and electrical service to the office complex. Mr. Carcieri

indicated that the Department of Transportation did suggest that the Foundry consider a grant of easement over the subject property; however, the Foundry stated that it preferred to own the land in fee. Therefore, the Department of Transportation is before the Committee seeking conceptual approval to sell 2,200 square feet of State-owned property to the applicant. Mr. Carcieri stated that the property has been through the State Properties Committee's surplus property process and Ms. Rhodes has informed the Department of Transportation that no objections or comments were received from the Statewide Planning Program or from the various State-agencies. Mr. Carcieri stated that the Department of Transportation will pursue the payment of retroactive rent from the date of the Department's discovery of the existing encroachment. Mr. Carcieri indicated that the Department became aware of the encroachment approximately eighteen (18) months ago. Chairman Flynn asked if the Department believes that the encroachment has actually existed for a longer than eighteen months. Mr. Carcieri stated that the Department presumes the encroachment has existed for a longer period of time. A motion was made to table the request until such time as the Department of Transportation establishes the length of the encroachment in order to determine a fair and equitable retroactive rental fee to be paid to the State of Rhode Island by Mr. Pagliarini. For purposes of further discussion, the motion was seconded by Mr. Griffith.

Under discussion, Mr. Griffith stated that as the Department of Transportation is seeking conceptual approval to convey the subject property at this time, he sees no reason to delay the Department's

request. Mr. Griffith suggested that the Committee grant the Department of Transportation's request for conceptual approval to sell the subject property subject to the Department of Transportation establishing the actual length of the existing encroachment and determining a fair and equitable retroactive rental fee to be paid to the State of Rhode Island prior to returning to the Committee for final approval. Mr. Carcieri indicated that an appraisal of the subject property has determined its value at \$33.00 per square for a total purchase price of \$66,000; therefore, said property would command a rental fee of \$6,600 per year. Mr. Carcieri indicated that in terms of establishing when the encroachment began, the Department of Transportation, in good faith, would most likely rely on the date that the Department first inspected the subject property. Therefore, the Department of Transportation will notify the Foundry that from that date certain it owes the State of Rhode Island a retroactive rental fee in the amount of \$6,600 per year as a preliminary to any sale of the subject property. Discussion continued regarding the Department's ability to establish the actual length of the existing encroachment and any potential repercussions to the State of Rhode Island. Chairman Flynn indicated that existing aerial photography available in the State would be helpful in establishing an approximate date. A revised motion was made to grant conceptual approval to sell the property subject to the Department of Transportation researching the actual length of the encroachment in order to determine a fair and equitable retroactive rental fee to be paid to the State of Rhode Island by Mr. Kay and seconded by Mr. Griffith.

Passed Unanimously

ITEM M – Department of Transportation – A request was made for conceptual approval to sell approximately 3,263 square feet of land located at the intersection of Hamlet Avenue and Florence Drive in the City of Woonsocket. Mr. Carcieri presented a site map and photographs depicting the exact location of the subject property. Mr. Carcieri indicated that the City of Woonsocket approached the Department of Transportation to purchase this small triangular shaped parcel of land, which fronts land owned by the City's on which it intends to construct two new middle schools. The City of Woonsocket has represented to the Department of Transportation to utilize the subject property for beautification and to place picnic tables for passive use. Mr. Carcieri indicated that the Department of Transportation's Land Sales Committee approved the sale of subject property as it does not have any present or future intended purpose for highway use. Mr. Carcieri explained that there is a drainage installation on site, which will have to be preserved if the property is sold to the City of Woonsocket. Mr. Carcieri noted that the final metes and bounds description indicated a larger parcel of land than the Department of Transportation originally calculated; therefore, it has been determined that the subject property actually consists of 3,200 square feet of land. A motion was made to grant conceptual approval to sell the property subject to the drainage structure being preserved via a grant of easement and subject to a five foot wide by forty-five foot long strip of land located on the westerly side of Florence Street be retained for a bike lane and/or signal control

equipment by Mr. Pagliarini and seconded by Mr. Griffith.

Passed Unanimously

ITEM N – Department of Transportation – A request was made for conceptual approval to sell approximately 6,000 square feet of property located on Service Road No. 7 @ Broad Street in the City of Providence. Mr. Jackson presented photographs of the subject property for the Committee's review. Mr. Jackson indicated that the location of the subject property is the site of the former Boy Scouts of America building. Mr. Jackson illustrated the surrounding area of the subject property and indicated the location, which is across the street from the former site of the YMCA building (currently Crossroads Rhode Island). Mr. Jackson explained the characteristic and the exact location of the subject property. Mr. Jackson indicated that a survey of the subject property determined that the parcel consists of 5,571 square feet of land. Mr. Pagliarini stated that he fully understands that the Department of Transportation is seeking conceptual approval to convey the subject property; however, Mr. Pagliarini questioned whether the subject property has been appraised. Mr. Jackson indicated that an appraisal of the property is being conducted at this time. Mr. Pagliarini indicated that he is concerned whether the Department of Transportation intends to offer the property for sale via a Request for Proposals or whether the Department intends to convey the property as a sole source sale to the abutting property owner. Mr. Jackson indicated that the subject property does not meet the requirements of a buildable lot. Mr. Pagliarini explained that as a land use attorney, he has represented

clients, who have purchased small parcels of land that abut larger parcels of land for top dollar in order to prohibit a competitor from developing the assemblage of property and positioning the competitor's business in a more accessible and visible location than his client's existing location. Therefore, Mr. Pagliarini stated that he believes the subject property should go out to bid to ensure the State of Rhode Island obtains the highest and best value for said property. Hypothetically speaking, Mr. Pagliarini indicated that if the applicant intends to develop a pharmacy on the site, the possibility exists that a competitor would be willing to offer to pay \$500,000 for the State-owned parcel in order to stymie the development of another pharmacy. Mr. Pagliarini indicated that a sole source sale of the subject property could prevent the State from obtaining the most amount of money for the property because a competitor may be willing to pay a higher amount simply to derail the another competitor's plan to develop the property as the site of another pharmacy. Mr. Pagliarini recommended that two appraisals be conducted relative to the subject property; one to determine the value of the State-owned property as a "stand alone" parcel of land and other to determine its value as an assemblage to the abutting property. Mr. Pagliarini stated that unless the applicant acquires the State-owned parcel, they will not develop the larger abutting property as the site of a pharmacy. Mr. Woolley asked Mr. Pagliarini to explain why he believes the State-owned parcel is essential to the development of the larger abutting parcel as the site for a pharmacy. Mr. Pagliarini stated that unless the applicant secures the

State-owned property located at the intersection/corner, the larger abutting property is not a site, because the applicant wants the exposure of the intersection and the traffic light. Mr. Fiorenzano from Paolino Properties stated that the acquisition of the State-owned property will not have any bearing on the site being developed as a pharmacy. Mr. Fiorenzano stated that the applicant's desire to purchase the subject property is strictly to provide for additional parking and to erect signage; however, the subject property has no bearing whatsoever on the development of the pharmacy. Mr. Fiorenzano stated that the process to purchase the State's parcel began long before a pharmacy expressed interest in the Paolino Properties' parcel of land. Mr. Fiorenzano stated the applicant's interest in purchasing the State-owned property was simply to enhance its own property for possible sale; long before the pharmacy was even thought of and it is absolutely not part of the present thinking. Mr. Pagliarini indicated that if, as Mr. Fiorenzano stated, the subject property is not required for the development of the pharmacy, then he has no objection to said property being offered for sale via a Request for Proposals because it is his belief a competitor will purchase the property. Chairman Flynn asked Mr. Jackson if the Department of Transportation is seeking the Committee's approval to sell the property as a sole source sale. Mr. Jackson indicated that Department of Transportation is proposing to sell the property as a sole source sale. Mr. Pagliarini moved to grant conceptual approval to sell the subject property via a Request for Proposals. Mr. Pagliarini indicated that he does not believe the property should be

sold as a sole source sale and as Mr. Fiorenzano just made representation to the State Properties Committee that the securing of the subject property does not adversely affect Paolino Properties' project and that the pharmacy is coming with or without the State-owned property, Mr. Pagliarini recommends the Department offer the property via an Request for Proposals to ensure the State receives the best and highest value. Mr. Pagliarini's motion to grant to conceptual approval to sell the subject property via a Request for Proposals was seconded by Mr. Kay.

Passed Unanimously

ITEM O – Department of Transportation – A request was made for conceptual approval to sell approximately 3,585 square feet of land located between 552 and 554 Atwood Avenue in the City of Cranston. Mr. Jackson presented photographs of the subject property for the Committee's review. Mr. Pagliarini asked what the average appraised value is of the subject property as well as others like it located in the City of Cranston. Mr. Carcieri indicated that the appraised value of a comparable property, which was sold approximately two (2) years ago, was established at \$10.00 per square foot. Mr. Pagliarini indicated that because the subject property is zoned C-5, which is the only zoning that allows auto-body shops, it makes said property the most valuable land located in the City of Cranston. Chairman Flynn, the former Planner of the City of Cranston, stated that he disagreed that this is the most valuable land located in the City of Cranston. Chairman Flynn stated he is certain the Garden City property, for example, is certainly for valuable than the subject property. Mr.

Pagliarini conceded that the Garden City property is more valuable than the subject property; however, he reiterated that he believes the subject property is in fact very valuable land because property zoned C-5 is very scarce. Chairman Flynn agreed that property zoned C-5 is a scarce commercial zoned commodity. However, Chairman Flynn stated that the zoning of any property is factored into the appraisal. Mr. Pagliarini indicated that he wants to be assured that the property is not being appraised at the same rate as property zoned as residential land. Mr. Pagliarini stated that auto-body business owners are willing to pay a very high price for property zone C-5 due to its scarceness. Mr. Jackson stated that appraisers utilize the “assemblage method” to appraise these types of property; therefore, the zoning of a property is naturally taken into consideration when establishing the value of a property. A motion was made by Mr. Pagliarini to grant the Department of Transportation’s request for conceptual approval to sell the subject property subject to the preservation of any and all necessary utility easements and subject to the review of any potential encroachment upon said property in order to determine a fair and equitable retroactive rental fee to be paid to the State of Rhode Island.

Passed Unanimously

ITEM P – Department of Transportation – A request was made for conceptual approval to sell approximately 8,500 square feet of land abutting property located at 555 Atwood Avenue in the City of Cranston. A motion was made by Mr. Pagliarini to grant the Department of Transportation’s request for conceptual approval to

sell the subject property subject to the preservation of any and all necessary utility easements and subject to the review of an pre-existing private uses upon said property in order to determine a fair and equitable retroactive rental fee to be paid to the State of Rhode Island. Said motion was seconded by Mr. Griffith.

Passed Unanimously

ITEM Q – Department of Transportation – A request was made for approval of and signatures on a Permanent Loop Detector Easement Agreement between McDonald's Real Estate Company and the Department of Transportation in conjunction with traffic safety improvements (signalization) along West Main Road in the Town of Middletown.

Ms. Kerr explained that this Permanent Loop Detector Easement Agreement is one of three (3) Agreements, which were placed on the agenda for the State Properties Committee meeting held on October 28, 2006. Ms. Kerr stated that the two (2) other Permanent Loop Detector Easement Agreements were presented and approved by the State Properties Committee at the previous meeting. However, because McDonald's Real Estate Company unilaterally incorporated indemnification language in the original document, the request for approval of and signatures on said Agreement was deferred in order for the Department of Transportation to remove said language and present the Permanent Loop Detector Easement Agreement in its original form. A motion was made to approve by Mr. Pagliarini and seconded by Mr. Kay.

Passed Unanimously

The Committee moves to go into Executive Session, pursuant to Rhode Island General Law 42-46-5(a)(5) for the specific purpose of discussion or consideration related to the acquisition or lease of real property for public purpose, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public.

A motion was made to enter into Executive Session by Mr. Griffith and seconded by Mr. Kay. A roll call vote was taken and the votes were as follows: Mr. Griffith voted “Aye”, Mr. Kay voted “Aye”, Mr. Pagliarini voted “Aye”; Mr. Woolley voted “Aye” and Chairman Flynn voted “Aye”.

ITEM E1 – Department of Transportation – A request was made for authorization to acquire temporary and permanent easements to construct sidewalk improvements along Child Street and a portion of Main Street in the Town of Warren to make the area accessible to Americans with disabilities pursuant to the Americans with Disabilities Act.

The State Properties Committee returned to the open session of the meeting at

11:40 a.m.

After the discussion regarding ITEM E1 in Executive Session, a motion was made

to approve by Mr. Kay and seconded by Mr. Griffith.

Passed Unanimously

ITEM E2 – Department of Transportation – A request for approval of and signatures on a Certificate of Land Transfer by and between the Department of Administration and the Department of Transportation for the transfer of approximately 14,850 square feet of land for future improvements to (Route 44) Putnam Pike in the Town of Glocester. This item was deferred to the November 25, 2008, meeting of the State Properties Committee at the request of the Department of Transportation.

There being no further business to come before the State Properties Committee, the meeting was adjourned at 11:41 a.m. A motion was made to adjourn by Mr. Griffith and seconded by Mr. Kay.

Passed Unanimously

Holly H. Rhodes, Executive Secretary